

The 5/31/11 Joint Minutes
are included in the packet
under CIC Item #2-A

UNAPPROVED
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
PUBLIC UTILITIES BOARD (PUB) MEETING
TUESDAY- -JUNE 7, 2011- -6:00 P.M.

Mayor Gilmore convened the Joint Meeting at 6:00 p.m.

ROLL CALL - Present: Councilmembers Bonta, deHaan, Tam and Mayor Gilmore; Acting Board Member Goldman, Board Members Deaton, Hamm, Holmes, and McCahan – 9.

Absent: Councilmember Johnson - 1.

(11-280 CC/PUB) Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9); Name of Cases: Vectren Communication Services v. City of Alameda, Acting By and Through Alameda Municipal Power Bernard A. Osher, Trustee v. City of Alameda, et al City of Alameda on Behalf of Itself and Alameda Municipal Power, et al v. Nuveen Municipal High Income Opportunity Fund, et al

(11-281 CC) Conference with Labor Negotiators (54957.6); Agency negotiators: Joe Wiley and Human Resources Director; Employee organizations: All Public Safety Bargaining Units.

(11-282 CC) Conference with Legal Counsel – Existing Litigation; (Government Code Section 54956.9); Name of Case: In re: Estate of William G. Whittier (Case No. RP10525921)

Following the Closed Session, Mayor Gilmore announced that regarding Vectren, the Acting Legal Counsel and outside Council briefed the City Council and PUB; the Council and PUB provided direction; regarding Labor, the labor negotiators briefed Council; direction was provided to the negotiators; regarding Whittier, the Council was briefed on the litigation and provided direction.

Adjournment

There being no further business, Mayor Gilmore adjourned the meeting at 7:30 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED
MINUTES FOR THE REGULAR CITY COUNCIL MEETING
TUESDAY- -JUNE 7, 2011- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:34 p.m. Vice Mayor Bonta led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Bonta, deHaan, Tam and Mayor Gilmore – 4.

Absent: Councilmember Johnson - 1.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(11-____) Presentation of Certificates of Appreciation for Neighborhood Library Improvement Project.

Mayor Gilmore read and presented the certificates to Barbara Hawkins, Eva Volin, Gert Woods, Jesus Vargas, Laurie Kozisek, Luzanne Engh, Michael Haritgan, Noll & Tam Architects, and Jane Chisaki.

(11-____) Proclamation Declaring the Month of June as Lesbian, Gay, Bisexual, and Transgender (LGBT) Pride Month.

Mayor Gilmore read and presented the Proclamation to Leslie Krongold and Allan Mann.

ORAL COMMUNICATIONS, NON-AGENDA

(11-____) Janet Davis, Alameda, addressed the Animal Shelter.

CONSENT CALENDAR

Councilmember deHaan moved approval of the Consent Calendar.

Councilmember Tam seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Johnson – 1.] [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*11-____) Minutes of the Special and Regular City Council Meetings of May 17, 2011; the Joint City Council and Board of Education Meeting and the Special City Council Meeting of May 19, 2011; and the Special City Council Meeting of May 24, 2011. Approved.

(*11-) Ratified bills in the amount of \$3,053,457.33.

(*11-) Recommendation to Award a Contract in the Amount of \$84,202 including Contingencies, to E2 Consulting for the Smoke Testing of the City of Alameda's Sanitary Sewer System, No. P.W. 03-11-06. Accepted.

(*11-) Recommendation to Award a Contract in the Amount of \$598,000, Including Contingencies, to Gallagher & Burk, Inc. for Repair and Resurfacing of Certain Streets, Phase 30, No. P.W. 10-10-26. Accepted.

(*11-) Resolution No. 14569, "Requesting and Authorizing the County of Alameda to Levy a Tax on All Real and Personal Property in the City of Alameda as a Voter Approved Levy for the General Obligation Bonds Issued Pursuant to a General Election Held November 7, 2000." Adopted.

(*11-) Ordinance No. 3032, "Amending Ordinance No. 1277, N.S. to Rezone Approximately .06 Acres located at 1348 Weber Street, APN 073 039702600 from C-1, Neighborhood Business Zoning District, to R-4, Neighborhood Residential Zoning Designation." Finally passed.

REGULAR AGENDA ITEMS

(11-) Resolution No. 14570, "Appointing David Burton as Member of the Planning Board." Adopted; and

(11- A) Resolution No. 14571, "Appointing Mike Henneberry as Members of the Planning Board." Adopted.

Councilmember Tam moved adoption of the resolutions.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 4.
[Absent: Mayor Johnson -1.]

The City Clerk administered the Oath of Office and presented certificates to Mr. Burton and Mr. Henneberry.

(11-) Public Hearing to Consider Resolution No. 14572, "Confirming the Business Improvement Area Report for FY 11-12 and Levying an Annual Assessment on the Alameda Business Improvement Area of the City of Alameda for FY 11-12." Adopted.

The Deputy City Manager – Development Services gave a brief presentation.

Councilmember Tam moved adoption of the resolution.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 4.

[Absent: Mayor Johnson -1.]

(11-____) Public Hearing to Consider Resolution No. 14573, "Establishing Integrated Waste Collection Ceiling Rates and Service Fees for Alameda County Industries, Inc., for Rate Period 10 (July 2011 to June 2012) and Allocating \$210,000 from the Integrated Waste Management Account." Adopted.

The Public Works Director and Rick Simonson, HF&H, gave a brief presentation.

Councilmember deHaan stated some recyclables have a deposit value; inquired whether a substantial amount of money is generated from said items.

Mr. Simonson responded in the affirmative; stated the commodity market dropped in 2008; the City negotiated a deal for revenue sharing; commodity revenues help offset rates.

Councilmember deHaan inquired whether ACI receives the face value of what a container is worth, to which Mr. Simonson responded in the affirmative.

Speaker: Robb Ratto, Park Street Business Association (PSBA).

Councilmember Tam stated the City should take pride in its recycling efforts; Alameda has the highest rate for recycling in the County; 80% of the City's waste is diverted from landfills; expressed appreciation for efforts made to manage rates in tough economic times.

Councilmember Tam moved adoption of the resolution.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 4.
[Absent: Mayor Johnson -1.]

(11-____) Public Hearing to Consider Collection of Delinquent Business License Taxes and Delinquent Integrated Waste Management Accounts Via the Property Tax Bills.

The City Controller gave a brief presentation.

Councilmember Tam noted Citibank owes over \$3,372.

The City Controller stated business license tax is based on either gross receipts or number of employees; Citibank's amount is based on gross receipts.

Councilmember deHaan inquired whether the number of delinquent accounts noted in the staff report are current, to which the City Controller responded the number of accounts have gone down slightly.

Vice Mayor Bonta moved approval of the staff recommendation.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Johnson – 1.]

(11-) Public Hearing on Collection of Delinquent Administrative Citation Fees.

The Chief Building Official gave a brief presentation.

Vice Mayor Bonta stated that he would recuse himself from voting on 1710 Jay Street.

Councilmember deHaan stated the number of citations is significant and appears to be more than in the past.

The Chief Building Official stated citations are more than in the past; some properties are repeats.

Speaker: Patrick Petzel, representing 1710 Jay Street.

Mayor Gilmore inquired whether said property has had long-term issues, to which Mr. Petzel responded in the affirmative.

Councilmember deHaan inquired when liens would be recorded, to which the Chief Building Official responded June 30, 2011.

Councilmember deHaan inquired whether the 1710 Jay Street issue could be resolved by then, to which Mr. Petzel responded the issue should be able to be resolved by then.

Mayor Gilmore inquired whether staff is in favor of Mr. Petzel's request [to work with staff on the issue], to which the Chief Building Official responded in the affirmative.

Councilmember Tam inquired whether other property owners are in a similar situation [as 1710 Jay Street]; further inquired whether efforts have been made to resolve issues.

The Chief Building Official responded the 1710 Jay Street property owner is the only one who has come forward to resolve the issue.

Councilmember deHaan inquired how penalties are assessed, to which the Chief Building Official responded citations start at \$250, increase to \$500 for the second citation, \$1,000 for the third citation, and \$1,000 for each citation thereafter.

Councilmember Tam moved approval of the staff recommendation, with the exception of 1710 Jay Street.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Johnson – 1.]

CITY MANAGER COMMUNICATIONS

(11-) Crown Beach Incident

The Acting City Manager stated the Fire policy on rescue swimmers has been repealed; under the new policy that was issued last Tuesday, the on scene Incident Commander will now have the discretion to send rescue swimmers into the water as appropriate; thirty members of the Fire Department have volunteered for the Rescue Swimmer Training Program; sixteen will start water training next week; the website will have a repository for documents and files regarding the matter and will be available later this week; documents will be added as they become available; radio transmissions and phone calls into and out of the Police Department Communications Center will be available; recordings have been redacted to delete a private cell phone number and private home addresses; a comment regarding the medical condition of someone other than Mr. Zack will not be audible; radio communications between the Fire Department and the County Communication Center will be available; a written transcript will also be available; a written timeline summary of Alameda Police Department and Alameda Fire Department responses will be provided; other records relevant to the incident, including [Fire Department] Information Bulletin 1762, which is the 2009 memo regarding the status change of the Service Water Rescue Swimming Program, will be available in addition to [Fire Department] Information Bulletin 1884 issued last week regarding the operational status change for Service Water Rescue swimmers and [Fire Department] General Bulletin 146, which is the 2003 policy on water rescue operations which runs the gamut covering swimmers and boats; other documents will be reviewed for exemptions from the Public Records Act.

Mayor Gilmore stated the situation is very tragic for Mr. Zach, his family, and members of the public; there has been a lot of communication via phone calls and emails; the public is deeply concerned; one reason the matter is on the agenda is because it would be appropriate for Council to call for an independent review of the situation even though the Police and Fire Departments are doing their own investigation; an independent review is warranted; determining what happened and when it happened is extremely important; timelines will be reviewed in addition to existing documents, policy, procedures, and protocols so that Council can determine what needs to be changed; people are very upset about the incident; Council is upset also but needs to wait until the results of the investigation; scoring political points by making a lot of different statements, accusations, and placing blame would be easy but will not bring back Mr. Zach, provide comfort to his family, or ensure that something as terrible as this incident would not happen again; the only way the City can give its citizens credible assurances is to find out exactly what happened, when it happened, and continue to make changes so that this terrible incident does not happen again; when the independent review is complete, the results will be shared with the community; right now, there is a confidence problem; that she wants to ensure residents that necessary changes will continually be made.

Speakers: Liz Williams, Alameda; Denise Lai, Alameda (submitted comments); Janet

Waring, Alameda; James Lester, Alameda; Len Grzanka, Alameda (submitted comments); Peter Aschwanden, Alameda; Patty Rose, Alameda; Rosemary McNally, Alameda (submitted comments); Adam Gillitt, Alameda; Daniel Lisker; Joyce Carroll, Alameda; David Howard, Alameda; Robert Todd, Alameda; Jon Spangler, Alameda; Michael John Torrey, Alameda; Helen Jefferson, Alameda; Alexander Stevens, Alameda; Gregg deHaan, Alameda; Carol Gottstein, Alameda; Nancy Hird, Alameda Citizen's Task Force; Joanne Harnett, Alameda; Dawna Dowdell, Alameda; Harriett Petroelje, Alameda; Alan Pryor, Alameda; Brian Berg, Alameda; Trish Spencer, Alameda; and Warren Brunetti, Alameda.

Vice Mayor Bonta left the dais at 8:55 p.m. and returned at 8:56 p.m. Councilmember Tam left the dais at 8:58 p.m. and returned at 9:00 p.m.

Vice Mayor Bonta stated the incident is very emotional and tragic; that his heart goes out to Mr. Zach and his family; Council has taken and will continue to take steps to address the incident, not the least of which is the Interim Fire Chief's swift and decisive action in immediately changing the water rescue policy; in addition, Council will be initiating a very thorough, independent review of exactly what happened and why and, while in the process, get to the root cause of the incident; we can do better, must do better, and will do better; Alameda has always been a very safe community with dedicated, committed, and hard working public safety employees; Police Officers and Firefighters have served the community very well for many years and will continue to serve the community for many years to come; the City's Police and Fire Departments remain critical and highly valued components of the City and community services.

Councilmember deHaan stated that he has a very heavy heart regarding the matter; the past week has been a very trying experience for him and his family; that he personally takes responsibility for oversight of community welfare; he feels that the Council's commitment has not been fulfilled at this point; he is not comfortable that a resolution will be made quickly; an external review is needed; the community and Police and Fire Departments need to consider having a stand down, which involves reviewing all procedures; that he recommends reviewing all procedures and processes as soon as possible and moving forward in a good manner to bring the matter to a conclusion.

Councilmember Tam expressed her sympathy; stated her heart goes out to the family of Mr. Zach, the community, and public safety personnel who felt that they were handcuffed in doing their job; accurate information needs to be provided; too many people are second guessing the snippets of hearsay and information; that she has had the chance to review part of the 911 records which do not seem to be consistent with comments made this evening; that she is glad the Acting City Manager will ensure that everything is made public and documents are not hidden; that she does not think the unjust accusations are warranted; Council will be looking at the incident with an independent eye and independent review of all protocols and directives to understand the root cause; Council needs to ensure that all information is readily available.

Mayor Gilmore thanked everyone who came out to speak on the incident; stated comments have been heartfelt; Council has pledged to go forward in a transparent manner and do an independent review of what happened; that she believes the matter has been immensely difficult for everyone; it is going to take time for the community to come back together again and have the same kind of confidence as before; Council is committed to taking the time and helping the community get through the issue.

* * *

Mayor Gilmore called a recess at 9:44 p.m. and reconvened the meeting at 10:00 p.m.

* * *

(11-) Receive an Update on the Associated Community Action Program

The Acting City Manager gave a brief presentation.

Vice Mayor Bonta inquired what is the best estimate when people will know all obligations have been satisfied.

The Acting City Manager responded the final wind down is taking longer than anticipated; stated September 1st is a good outside date.

(11-) Acting City Manager Remarks

The Acting City Manager thanked the Council for putting faith in her to serve as Acting City Manager for the past five and a half months; stated the opportunity has been invaluable; community support has been wonderful.

Mayor Gilmore thanked the Acting City Manager for stepping up to the challenge and making her transition to Mayor as painless as possible; stated the Acting City Manager is an invaluable asset to the City.

Vice Mayor Bonta expressed his deep appreciation for the Acting City Manager's service; stated he personally appreciates seeing all of her talents first hand.

Councilmember Tam stated the Acting City Manager has demonstrated her ability to inspire confidence within the team.

Councilmember deHaan stated the Acting City Manager has moved the City forward during very difficult times.

Speaker: Robb Ratto, PSBA.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

(11-___) Provide Direction on the Proposed Next Steps and Public Engagement in Reviewing Commissions.

Councilmember deHaan and Vice Mayor Bonta gave a brief presentation.

Vice Mayor Bonta suggested folding in Phase 2 [community engagement] and Phase 3 [improve the efficacy and efficiency of the commissions].

Councilmember deHaan stated that he does not have a problem with said suggestion; that he and Vice Mayor Bonta have met with various business groups; commission efficiency is very important.

Mayor Gilmore thanked the Subcommittee for all the hard work; stated Council has been concerned with staff resources; going forward, Council needs to be concerned about the use of staff resources and the efficiency of how commissions work and communicate with Council; the commissions are another place for the community to provide input before coming to Council; knowing how to be lean, mean and efficient while still maximizing the opportunity for citizen input is important; both ends [staff resources and citizen input] need to be reviewed; having five members on a commission might be difficult for getting a quorum.

Councilmember deHaan stated merging commissions might create a problem by losing a voice.

Mayor Gilmore stated that she is not opposed to merging commissions.

The Acting City Manager stated the Commission on Disability Issues and Youth Commission have eleven members which could pose a recruitment problem and an administrative burden on the City Clerk's office.

Councilmember Tam stated that she would like to maximize staff time and resources; a skeleton proposal should be provided outlining how staff and the Subcommittee believe that the roles of the boards and commissions can be more efficient and more effective in communicating to the Council; input from the community is needed at the front end; going past September would be okay.

Vice Mayor Bonta stated having a proposal could be helpful when seeking public input; that he does not want to provide the perception that the proposal has pre-cooked ideas; that he would like to get a better idea of how the front end concept.

Councilmember Tam stated on-line input would be one of the tools; a workshop or webinar could be held to solicit input; that she is concerned each board and commission might not understand rolls and objectives, the vehicle to use to communicate to Council,